

DETERMINATION

Case reference: STP/000526

Local Authority: London Borough of Kingston upon Thames

Competition: To establish a new secondary school

Commissioner: Kingston upon Thames Borough Council

Proposers: Diocese of Southwark Board of Education
Kingston Education Trust

Date: 4 January 2011

Determination:

Under the powers conferred on us by schedule 2 to the Education and Inspections Act 2006, we hereby determine that the proposed new secondary school in North Kingston shall be established by the Kingston Education Trust from 1 September 2015.

Referral

1. In a letter dated 28 October 2010 Kingston upon Thames Council (“the Council”) referred to the Office of the Schools Adjudicator (“OSA”) a specification for the establishment of a new secondary school (“the school”), together with details of two proposals from organisations competing to implement the specification. Since the Council is a partner in the one of the organisations submitting a proposal, it has referred the matter to the Adjudicator as required under 10(1)(a)(ii) of Schedule 2 to the Education and Inspections Act 2006 (“the Act”).

Jurisdiction

2. In a notice published in April 2010 the Council, acting as the commissioner, announced its intention to seek proposals to establish the school. The notice was in the form required by Section 7(5) of the Act. The commissioner received two proposals one from the Southwark Diocesan Board of Education (“SDBE”) and the other from the Kingston Education Trust (“KET”). The Council then published a second statutory notice and a summary of the proposals, inviting representations on the proposals. It organised a public meeting to allow presentations of the proposals and an opportunity for interested parties to ask questions of the proposers and to express their views, as required by The School Organisation (Establishment and Discontinuance of Schools) (England)

Regulations 2007 (“the Regulations”). This meeting was held on 24 September 2010

3. The Council formally referred the matter, including all associated documents and representations, to the Office of the Schools Adjudicator at the end of the consultation period.

Context

4. The Council has identified a growing need for secondary school places in the Borough, particularly in the area known as North Kingston. As part of its response to this demand the Council has decided to establish an additional secondary school principally to serve the North Kingston area. The Council has determined that the proposed school should open in September 2015, initially admitting 240 pupils in Year 7.
5. The Council invited proposals under Section 7 of the Act, and the Regulations drawn up under it, and two proposals for the new school were received. This determination is based on an assessment of those proposals.

The Specification

6. The Council, as the commissioner, published a statutory notice that provided information about why a new secondary school of the proposed size was required and contained brief details of the financial considerations. It indicated the proposed location of the new secondary school site, its pupil capacity and the initial admission number. The notice also provided a specification for the new school which is expected to have the status of a fully extended services school, offering community access to support a range of local organisations for social, sporting and adult learning programmes.
7. The notice stated that proposals from bidders would be expected to be generally in line with the requirements as specified, but that proposals that did not comply precisely but which nonetheless indicated that they would fully meet the demand need for school places, would be considered.
8. The specification documents were full and detailed and contained all the information bidders might require.

The Proposals

9. The commissioner received proposals that contained the relevant information as specified in the Regulations from:
 - a. The Southwark Diocesan Board of Education (“SDBE”)
 - b. The Kingston Education Trust (“KET”), formed by the University of Kingston, Kingston College and Kingston Borough Council.

Procedures

10. When the Council, as commissioner, became aware that a proposal would be forthcoming from an organisation on which it was represented, it advised the OSA that the matter would be referred to it for decision.
11. The OSA assigned two Adjudicators to consider the proposals. They both attended the public meeting held by the Council during the representation period at which the proposers were able to present their proposals to the public and to answer questions about them. This visit enabled the Adjudicators to hear directly from the proposers the key features of their proposals, and to hear the comments and concerns of members of the public present at the meeting. The visit also enabled them to see at first hand the proposed location for the new school.
12. After the end of the representation period, one of the adjudicators held separate meetings with representatives of the Council and of the two bidders in order to clarify and explore aspects of the documentation submitted.

Consideration

13. In considering the proposals, we referred to the Act and Regulations drawn up under it. We also had before us the statutory guidance for decision makers issued in 2007.
14. We concluded that both sets of proposals met the commissioner's requirements and were submitted by organisations that were likely to be capable of implementing their proposals effectively.
15. We therefore went on to consider the proposals and the additional information provided by the proposers at meetings in greater detail, taking into account the requirements of the Act, the Regulations and the statutory guidance. In reaching our decision we had regard to all the relevant matters including those highlighted in the following specific considerations.

Effect on standards and contribution to school improvement

16. This section of the guidance includes reference to the desirability of developing "a system shaped by parents"; the need to consider additional ideas put forward by proposers; the likely relative impacts on raising standards; and the contribution to diversity - affording parental choice but also meeting the needs of minority groups and vulnerable children.
17. The overwhelming view of parents in this part of the Borough is that there should be a new secondary school, so that a higher proportion of local children can attend a school which does not require a journey across the

Borough or, indeed, to another Borough. Clearly both proposals meet this aspiration.

18. Both proposals are rooted in a commitment to improving standards both in the school itself and in the wider community of schools in the Borough and beyond. Both set out ambitious aspirations for the school and all its students. Both proposers would have high expectations of the school's governors, head teacher and staff, and demonstrate a good understanding of the role of promoters in securing the effective leadership and governance which underpin the development of a successful school.
19. A strength of the proposals made by the SDBE is that organisation's track record in contributing to school improvement. The contribution which it makes to school improvement and leadership programmes is significant, and the record of success among the schools which it supports is commendable.
20. The KET is a new organisation and cannot at this stage point to a comparable track record. However, the Borough Council is a partner in the Trust and brings significant strengths in this regard, as demonstrated by the success of the schools it supports and the very positive judgements of the most recent Ofsted inspection. Further, a distinctive feature of the KET proposal is the significant additional contribution which the College and University have committed to making. They have undertaken to provide access to specialist teaching facilities and to co-operate with the leadership of the new school in the development of programmes and curriculum opportunities which seem likely to provide additional pathways and enhanced motivation, especially for 14-19 year-olds. The College and University have been clear that they seek (and will continue to seek) to work with all secondary schools in the area. In the case of the proposed new school, however, the Trust's vision is for a far more integrated relationship between the school, College and University. This, the Trust believes, will facilitate an enhanced level of collaboration in curriculum and staff development which will contribute to the effectiveness of the proposed school.
21. Although there is no doubt that the SDBE would provide a secure basis for the development of an effective secondary school, it seems to us that the KET proposals match this and have a number of significant and potentially very fruitful additional dimensions which are likely to contribute to the even higher standards of achievement and inclusion.
22. The KET proposal has the additional advantage of adding to the range of parental options. Whilst there is no Church of England school in the Borough of Kingston, such schools are available in neighbouring boroughs and within reasonable travelling distance. The school proposed by the KET would be a Trust School promoted by a university and an FE college as well as the local authority, and would therefore represent a distinctive new option.

School Characteristics

23. This aspect of the guidance covers, school size, proposed admission arrangements, the curriculum including proposed specialisms extended school provision, federation proposals and equal opportunities.

Size of School

24. There has been considerable local debate about the proposed size of the school. The site identified for the construction is smaller than ideal for a secondary school of 1200 11-16 year old students plus sixth form, and is located close to two other schools.
25. The KET proposal recognises this and undertakes to ensure that the design and construction of the buildings, the management of the school, and the use of specialist facilities off-site will ensure that this does not undermine the effectiveness of the school.
26. The SDBE proposal also accepts the size proposed in the specification and gives similar undertakings in respect of school management and design, but have also made it clear that their preference would be for a school accommodating significantly fewer students, and that they will make this clear in subsequent planning processes if successful with this proposal.
27. The SDBE, as a strategic partner of the Borough Council, is entitled to its view and is clearly free to express it. Nonetheless, we understand and sympathise with the commissioner's uneasiness about this somewhat equivocal position. Whilst this matter is not determinative, it is a significant contextual factor.

Extended School

28. Extended school arrangements were built into the specification and considered to be of key importance by the commissioner. Both proposers recognise the importance of this point and make ambitious and persuasive proposals in this regard.

Specialism

29. The commissioner's specification stipulated that the school should have specialisms in music and humanities. Both sets of proposals demonstrate the proposers' commitment to ensuring that students benefit from the proposed specialisms and that the school complements the specialist provision already made in the area.
30. The KET proposal highlights the potential added value to be drawn from close collaboration with the College and University. For example, the English specialism could be reinforced through the involvement of the

University's journalism and creative writing courses and associated research and extra-curricular programmes. The school would also benefit from the highly specialist facilities for teaching in music performance and production available at the College. Similarly the music specialism could be enriched by making the school the base for the Kingston Music Service.

Admissions

31. The proposed admission arrangements set out in both proposals meet the requirement of being fair and equitable, and are in line with the School Admissions Code currently in force. Both proposals included the school adopting the specialisms identified by the commissioner, but neither has indicated an intention of adopting any selection for aptitude in those specialisms. Despite these common features there is a significant difference between the proposals in respect of admissions.
32. The proposals made by the KET include admission arrangements which mirror those used in Community Schools maintained by the Borough Council. We note that, as these include simple distance as an oversubscription criterion, these arrangements will benefit some families living outside the Borough.
33. The arrangements proposed by SDBE properly include oversubscription criteria giving priority on the basis of an applicant religious faith and practice. But the SDBE has gone to considerable lengths to develop a set of admission arrangements (and oversubscription criteria in particular) which reconcile its wish to provide more places in a faith-based school with the commissioner's overriding concern to make additional provision available for all children in this part of the Borough. The arrangements they propose for the allocation of the "foundation" (faith-related) places give higher priority to local children than is often the case in faith schools. The commissioner acknowledges this, but has drawn our attention to the fact that some of the parishes identified for priority in the SDBE proposal are in a neighbouring borough.
34. We have accepted the commissioner's assessment that the difference between the approaches proposed for the allocation of what the SDBE proposal calls the "open" places (without reference to religious faith or practice) is likely to be marginal.
35. Both sets of proposed arrangements are workable and compliant with the Code. The SDBE is to be commended in having developed a set of arrangements which accommodate the aspirations of the local community and the wider faith community. The KET's proposals have the merit of simplicity and consistency with other local schools. We do not consider that the differences between the proposed admission arrangements constitute a basis for preferring either proposal.

Need for places - parental demand and diversity of places

36. The London Borough of Kingston has the following range of secondary school provision:

- Two single sex selective schools
- Four single sex comprehensive schools
- Two mixed comprehensive schools
- Two single sex Roman Catholic comprehensive schools.

Additionally post-16 opportunities are available at Kingston College.

37. The need for additional places has been clearly established by the Council as commissioner.

38. As mentioned above both proposals would broaden the range of schools in the Borough, but Kingston is a relatively small Local Authority in an extremely densely populated area which is relatively well served by public transport. In practice, many parents living in the Borough can and do look more widely and have access to an even richer range of options, including faith schools.

39. The Council undertook an impressive range of consultations about school provision before inviting proposals. It has clearly sought to take into account the preferences expressed. We note from the records of those consultations that there was little evidence of demand for faith-based provision at that preliminary stage.

40. Responses to the proposals themselves fall into two very distinct groups. A relatively small group of respondents express strong support for the SDBE proposal, highlighting the perceived benefits of a Christian-inspired education and pointing to the success of a number of faith schools in the Diocese and beyond. A second, much larger group express strong opposition to the principle of faith schools. Some of these respondents draw attention to what they regard as the potentially adverse effects of a faith school's admissions arrangements on the core purpose of making provision for children in this part of the Borough. Clearly we cannot reject the SDBE proposal on the basis of the objections in principle: the law provides for faith schools, and the SDBE is able to point to the inclusive nature of the schools which it supports and to some significant evidence of success in those schools. As mentioned above, the SDBE proposals relating to admissions are inclusive and equitable.

41. On balance we have concluded that the KET proposal is stronger than the SDBE proposal when examined from the point of view of diversity of provision and local support. Its proposal would lead to the establishment of a unique new option which would be welcomed by parents.

SEN

42. The 'SEN improvement test' has to be applied to all reorganisation proposals. This states, broadly, that where changes directly or indirectly affect SEN provision the outcome should result in improvements. As the proposal is to open a new mainstream school there is no direct impact on SEN provision in the area. The specification indicates an expectation that there will be on-site provision for secondary pupils with behavioural or attendance problems or who may be at risk of exclusion.
43. We were satisfied that both proposals respond appropriately to this aspect of the specification and there was no basis for preferring either on this criterion.

Conclusion

44. This competition has elicited two high quality proposals and we are satisfied that either of the promoters would be capable of supporting the creation of a successful new secondary school for North Kingston.
45. We have, however, concluded that the Kingston Education Trust's proposals are stronger particularly with regard to the potential impact on standards, the full exploitation of the school's specialisms and the enhancement to the range of options available for parents in the area.

Determination:

Under the powers conferred on us by schedule 2 to the Education and Inspections Act 2006, we hereby determine that the proposed new secondary school in North Kingston shall be established by the Kingston Education Trust from 1 September 2015.

Dated: 4 January 2011

Signed:

Adjudicator: Andrew Baxter